

Atty. Dkt. No. 047630-0301

REMARKS

Claims 1-23 and 35-57 are pending. Claims 1, 8, 9, 16, 21, 35-37, 40, 43, and 47-49 have been amended herein. Basis for the amendment of claim 1 is found throughout the application as filed and, in particular, at paragraphs [0097] – [0099] and [0106]. Claims 8, 9, 16, 21, 35-37, 40, 43, and 47-49 have been amended to change dependency or correct spelling errors. Accordingly, the amended claims raises no issue of new matter. Newly added claims 50-57 find basis in original claims 14-22. Accordingly, the amended claims raises no issue of new matter.

The Examiner has restricted claims 1-49 into 43 groups. Applicants provisionally elect for examination Group 2, directed to a chimeric fusion protein comprising Flt-3 ligand comprising SEQ ID NO:2 or portion thereof and a tumorcidal agent which is an antibody. The Examiner indicates that Group 2 encompasses claims 8-17. Applicants believe this to be an incomplete list. Group 2 includes claims where the targeting agent is an antibody as well as linking claims and generic claims. As such, Group 2 should include claims 1-17, 19-23, and newly added claims 50-57. With respect to the species election, Applicants elect **Species A: anti-p230 antibody or a biologically active fragment thereof**. The elected species reads on claims 1-17, 19-23, and newly added claims 50-57.

Applicants respectfully traverse the restriction requirement of the claims into 43 groups. Restriction is appropriate if two or more independent and distinct inventions are claimed in one application (35 U.S.C. §121); however, even if inventions are determined to be independent or distinct, restriction should not be made if examination can be performed without a “serious burden” on the examiner (MPEP §803). It is respectfully submitted that there would be no “serious burden” on the Examiner to examine all the claim groups since a search directed to Flt-3 ligand which will identify any fusion protein (or encoding nucleic acid) that includes this entity. Applicants respectfully submit that the search results will not be extensive and burdensome because there is not much literature involving Flt-3 ligand. Because no serious search burden exists, Applicants respectfully request the examiner to examine the claims of all the identified groups.

Atty. Dkt. No. 047630-0301

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 CFR §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872.

Respectfully submitted,

Date June 5, 2006

By Barry Wilson

FOLEY & LARDNER LLP
Customer Number: 30542
Telephone: (858) 847-6722
Facsimile: (858) 792-6773

Richard Warburg, Reg. No. 32,327
By Barry S. Wilson, Reg. No. 39,431
Attorney for Applicant